Supreme Court, U. S.
FILED
AUG 29 1980

No. 79-1056

IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

NORTHWEST AIRLINES, INC.,

Petitioner,

v.

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO,

AND

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,

Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

JOINT APPENDIX

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PETITION FOR WRIT OF CERTIORARI FILED JANUARY 4, 1980
CERTIORARI GRANTED JUNE 16, 1980

JOINT APPENDIX

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RELEVANT DOCKET ENTRIES
UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF COLUMBIA
DOCKET NO. 75-0223

Date	Filings - Proceedings
1975	
Feb 18	COMPLAINT; appearance; request pursuant to Rule 34
Feb 18	SUMMONS, Copies (2) and copies (2) of complaint issued. #1 ser. 2-28-7 #2 ser. 2-27-75.
May 30	ANSWER by deft. #1 to the complaint; c/m 5-29-75. Appearance of A. Andrew Giangreco.
May 30	MOTION by deft. #2 to dismiss; P&A; c/m 5-30-75. Appearance of Donald J. Capuano as counsel.
Jun 24	MEMORANDUM by pltff. of points and authorities in opposition to motion of Deft. #2 to dismiss or stay; c/m 6-23-75.
Jun 27	REPLY by deft. #2 to pltff's opposition to motion to dismiss; c/m 6-27-75.
Sept 18	MEMORANDUM of additional points and authorities on the subject of Union liability; c/m 9-17-75.
Oct 15	MOTION of deft. to dismiss complaint heard, argued and taken under advisement. Gasch, J.
Nov 11	MEMORANDUM of the Court denying motion of deft. to dismiss complaint. (N) Gasch, J.
Nov 11	ORDER denying motion of deft. to dismiss complaint. (N) Gasch, J.

Date	Filings - Proceedings
Dec 4	ANSWER of deft. #2 to complaint; c/m 12-4-75.
1976	
Jan 14	SUPPLEMENT by pltff. to request for production of documents by deft. #1; c/m 1-12-76.
Jan 14	SUPPLEMENT by pltff. to request for production of documents by deft. #2; c/m 1-12-76.
Mar 30	INTERROGATORIES of pltff. to deft.; c/m 3-24-76.
Jul 2	STIPULATION regarding discovery, approved. (FIAT) (N) Gasch, J.
Jul 7	SUPPLEMENTAL response by deft. #2 to request for production of documents; c/m 7-7-76.
Jul 26	REPLY by pltff. to Air Line Pilots Association's response to pltff's Rule 34 request; c/m 7-22-76.
Sept 29	MOTION by pltff. to compel production; Memorandum; table of contents; table of authorities; Exhibit A & B; c/m 9-24-76 and c/s 9-29-76.
Oct 29	MEMORANDUM of Air Line Pilots Association, International in opposition to motion to compel; c/m 10-29-76.
Oct 29	AFFIDAVIT of Stephen B. Moldof; exhibit A through M. c/m 10-29-76.
Oct 29	AFFIDAVIT of Rosalind A. Kochman. c/m 10-29-76.
Nov 5	RESPONSE by pltff. to deft. #1's notice of deposition and request for production of documents; c/m 11-2-76.
Nov 18	REPLY Memorandum by pltff.; table of contents; Exhibit A, B & C; affidavit of service by mail 11-17-76.

Date	Filings - Proceedings
Dec 23	MOTION of pltff. to compel additional discovery heard, argued and taken under advisement. (Rep: Robert Weber) Gasch, J.
1977	
Jan 24	NOTICE by deft. #1 to take deposition of all persons currently employed by pltff. who were witness to collective bargaining agreement between pltff. and deft. #1 on Nov. 18, 1976; c/m 10-15-76.
Feb 2	MOTION by deft. #2 to dismiss; P&A; table of contents; table of authorities; Exhibit A; c/m 1-27-77.
Mar 11	MEMORANDUM by pltff. in opposition to deft. #2's motion to dismiss; table of contents; table of authorities; c/m 3-10-77.
Mar 18	MOTION of deft #1 to dismiss, memorandum, c/m 3-16-77
Apr 4	MEMORANDUM by pltff. in opposition to motion of deft. #1 to dismiss c/m 3-29-77.
Apr 7	REPLY Memorandum by deft. #2 of points and authorities in support of motion to dismiss of deft. #2; table of contents; table of authorities; Exhibit A & B; c/m 4-7-77.
Apr 12	ORDER filed Apr. 8, 1977 holding in abeyance motion of pltff. to compel defts. to produce certain documents. (N) Gasch, J.
Jun 24	MOTION of deft. to dismiss complaint heard, argued & taken under advisement. (Rep. Regis Griffey) Gasch, J.
Jul 11	MEMORANDUM of the Court. (N) Gasch, J.
Jul 12	ORDER filed July 11, 1977 granting in part and denying in part deft's motion to dismiss complaint. (N) Gasch, J.

Date	Filings - Proceedings
Jul 18	MOTION by deft. #2 to modify court's order for purposes of certification pursuant to 28 USC, 1292(b) and to modify court's memorandum; memorandum; c/m 7-18-77.
Jul 27	MOTION of pltff. for entry of Final Judgment pursuant to R. 54(b), FRCP; c/m 7-26-77.
Jul 27	MEMORANDUM of pltff. in opposition to deft. #2's motion to certify for appeal pursuant to 28 USC, 1292(b) and in support of conditional motion for entry of judgment; c/m 7-26-77.
Aug 2	ORDER filed July 29, 1977 granting in substance and denying in substance pltff's motion for production of documents. (N) Gasch, J.
Aug 2	ORDER filed July 29, 1977 granting motion of deft. to amend Court's order dated July 7, 1977 by the deletion of footnote 18 at page 7. (N) Gasch, J.
1978	
Jan 9	CERTIFIED copy of USCA order granting petitions for permission to appeal pursuant to 28 USC, 1292(b) and the Clerk of the District Court is requested to certify and transmit the record on appeal at his earliest convenience.
Jan 12	ORDER filed Jan. 11, 1978 that final judgment is entered as to order dated 7-7-77, dismissing without prejudice, pltff's claim for reimbursement from defts for some portion of its liability with respect to the Equal Pay Act. (N) Gasch, J.
Jan 23	APPEARANCE of Philip A. Lacovara as counsel for pltff. and withdraw of appearance of John L. Richardson as counsel for same; c/m. CAL/N.

Date	Filings - Proceedings
Jan 16	RECORD on Appeal delivered to USCA; Receipt acknowledged. (USCA No. 78-1056 Transport Workers) (USCA No. 78-1098 ALPA)

UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT
DOCKET NO. 78-1056

Date	Filings - Proceedings
1-19-78	Certified Original Record (2 volumes); no transcript (n-3) (Also record in No. 78-1098).
1-19-78	See order of 1-6-78 in Nos. 77-8044 & 77-8045 for text of questions to be addressed in the briefs.
2-7-78	1-Letter from EEOC advising that they will participate as an amicus curiae pursuant to order of 1/10/78 in Misc. Nos. 77-8044 & 77-8045.
2-21-78	4-Appellee's (Northwest Airlines) motion to consolidate Nos. 78-1056, 78-1098 and 78-1141 and to establish briefing schedule (m-21)
3-7-78	Clerk's order that Nos. 78-1056, 78-1098 and 78-1141 are consolidated for consideration on the merits and that a briefing schedule is established as follows: Initial briefs in Nos. 78-1056 and 78-1098 - March 20, 1978, Northwest Airlines, Inc. brief of appellant in 78-1141 and as appellees in 78-1056 and 78-1098 - April 24, 1978. Appellants' (TWU and

Date	Filings - Proceedings
	ALPA) responsive briefs - May 29, 1978 and Northwest's reply brief, if any, - June 21, 1978. The brief of EEOC as amicus curiae should be filed on the date provided in Rule 29 of FRAP.
3-21-78	Clerk's order granting the motion of the Air Lines Pilots Association, International for extension of time (in 78-1098) and the briefing schedule in these cases is modified as follows: The initial briefs in 78-1056 and 78-1098 - April 3, 1978: Northwest Airlines, Inc. brief as appellant in 78-1141 and as appellee in 78-1056 and 78-1098 - May 8, 1978; Appellants' ("TWU" and "ALPA") responsive briefs - June 12, 1978; Northwest's reply brief, if any, in 78-1141 should be filed on or before July 5, 1978
4-11-78	Clerk's order granting appellant's motion to extend time to file briefs and the brief schedule is amended as follows: April 17 - Initial Briefs in 78-1056 and 78-1098 May 22 - Northwest Airlines, Inc. brief as appellant in 78-1141 and as appellee in 78-1056 and 78-1098, June 26 - Appellants' (TWU and ALPA) responsive briefs and July 19 - Northwest's reply brief, if any, in 78-1141
4-17-78	15-Appellant's brief (m-14) and (corrected brief m-21)
4-17-78	10-Joint Appendix (m-17)
5-17-78	Clerk's order granting appellant's motion to extend time to file briefs and the briefing schedule is modified as follows: June 16 - Northwest's brief as appellant in No. 78-1141 and as appellee in Nos. 78-1056 and 78-1098, Appellants (TWU & ALPA) responsive briefs - July 21, 1978 and August 12 - Northwest's reply brief in No. 78-1141

Date	Filings - Proceedings
6-16-78	4-Amicus curiae (EEOC) motion for leave to file brief and present oral argument (m-16)
6-19-78	15-Appellee's (Northwest Airlines, Inc.) brief (m-16)
6-23-78	15-Brief of amicus curiae (EEOC) (m-16)
7-21-78	15-Appellee's [sic] (ALPA) brief (m-21)
8-30-78	15-Reply brief of Northwest Airlines, Inc. (m-28)
1-24-79	Argued before CJ Wright*, Robinson, CJ and Richey, US District Court Judge for DC
8-30-79	Opinion for the Court filed by District Judge Richey.
8-30-79	Per Curiam order that the judgment of the District Court appealed from in these causes is affirmed in part, in accordance with the opinion of this Court filed herein this date; with respect to that portion of the case which is not the subject of the foregoing affirmance, the record is remanded to the District Court for further proceedings, also in accordance with the opinion of this Court filed herein this date.
9-13-79	11-Northwest Airlines, Inc. petition for rehearing (m-12)
10-5-79	Per Curiam order, sua sponte, that the order filed August 30, 1979; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-5-79	Judgment by this Court that the judgment of the District Court insofar as it pertains to the Equal Pay Act is affirmed, but said judgment to the extent that it relates to the Title VII claim, is vacated in order that the District Court may consider the issue of laches, and this case is remanded to the District Court for further proceedings, all in accordance with the opinion of this Court filed herein on August 30, 1979.

Date	Filings - Proceedings
10-9-79	Per Curiam order denying appellee's petition for rehearing; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-18-79	4-Appellee's motion for stay of mandate (m-18) (Filed by Northwest Airlines, Inc.)
12-7-79	Per Curiam order granting appellee's motion for stay of mandate pursuant to Rule 41(b) of FRAP; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
1-10-80	Notification from Clerk Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056
1-10-80	Certified copy of order from Clerk Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056 and is now pending.

UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT
DOCKET NO. 78-1098

Date	Filings - Proceedings
2-6-78	Certified Original Record (2 vols.), no transcript (n-3) (This is also the record in No. 78-1056)
2-6-78	See order of 1/6/78 in Nos. 77-8044 & 77-8045 for text of questions to be addressed in the briefs
2-7-78	1-Letter from EEOC advising that they will participate as an amicus curiae pursuant to order of 1/10/78 in Misc. Nos. 77-8044 & 77-8045
2-21-78	4-Appellee's (Northwest Airlines) motion to consolidate Nos. 78-1056, 78-1098 and 78-1141 and to establish briefing schedule (m-21)

Date	Filings - Proceedings
3-7-78	Clerk's order that Nos. 78-1056, 78-1098 and 78-1141 are consolidated for consideration on the merits. . . .
4-17-78	10-Joint Appendix (m-17)
4-17-78	15-Appellant's brief (m-17)
6-16-78	4-Amicus curiae (EEOC) motion for leave to file brief and present oral argument (m-16)
6-19-78	15-Appellee's (Northwest Airlines, Inc.) brief (m-16)
6-23-78	Clerk's order directing Clerk to file EEOC's brief amicus curiae and that the motion to present oral argument is denied without prejudice to resubmission at the time counsel is notified of the scheduling of oral argument.
6-23-78	15-Brief of amicus curiae (EEOC) (m-16)
7-21-78	15-Appellant's (ALPA) brief (m-21)
8-30-78	15-Reply brief of Northwest Airlines, Inc. (m-28)
9-18-78	Clerk's order, sua sponte, that Nos. 78-1056, et al. and No. 78-1365 be calendared on the same day before the same panel
12-26-78	4-Motion of EEOC, amicus curiae, for leave to present oral argument (m-22)
1-12-79	Clerk's order that the following times are allotted for oral argument: Appellant/cross-appellee - 20 minutes. Cross-appellee/Appellant - 20 minutes and EEOC - 10 min.
1-24-79	Argued before CJ Wright*, Robinson, CJ and Richey, US District Court Judge for DC
8-30-79	Opinion for the Court filed by District Judge Richey.
8-30-79	Per Curiam order that the judgment of the District Court appealed from in these causes is affirmed in part, in accordance with the opinion

Date	Filings - Proceedings
	of this Court filed herein this date; with respect to that portion of the case which is not the subject of the foregoing affirmance, the record is remanded to the District Court for further proceedings, also in accordance with the opinion of this Court filed herein this date.
9-13-79	11-Northwest Airlines, Inc., petition for rehearing (m-12)
10-5-79	Per Curiam, sua sponte, that the order filed August 30, 1979 is vacated; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-5-79	Judgment by this Court that the judgment of the District Court insofar as it pertains to the Equal Pay Act is affirmed, but said judgment to the extent that it relates to the Title VII claim, is vacated in order that the District Court may consider the issue of laches, and this case is remanded to the District Court for further proceedings, all in accordance with the opinion of this Court filed herein on August 30, 1979.
10-9-79	Per Curiam order denying appellee's petition for rehearing; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-18-79	4-Appellee's motion for stay of mandate (m-18) (Filed by Northwest Airlines, Inc.)
10-23-79	1-Transcript of oral argument
11-7-79	Letter dated 10-31-79 from counsel for Air Line Pilots Association that they take no position on the motion to stay the mandate (m-31)
12-7-79	Per Curiam order granting appellee's motion for stay of mandate pursuant to Rule 41(b) of FRAP; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC

Date	Filings - Proceedings
1-2-80	Per Curiam order granting appellee (Northwest) motion for leave to file opposition to bill of costs and that costs in the amount of $359.65 are awarded to appellee (Air Line Pilots) and taxed against appellee (Northwest); CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
1-10-80	Notification from Clerk, Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056
1-10-80	Certified copy of order from Clerk, Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056 and is now pending

UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT
DOCKET NO. 78-1141

Date	Filings - Proceedings
2-21-78	Certified Original Record (no transcript) (n-3)
2-21-78	4-Appellant's (Northwest Airlines, Inc.) motion to consolidate Nos. 78-1056, 78-1098 and 78-1141 and to establish briefing schedule (m-21)
3-7-78	Clerk's order that Nos. 78-1056, 78-1098 and 78-1141 are consolidated for consideration on the merits. . . .
4-17-78	10-Joint Appendix (m-17)
6-16-78	4-Amicus curiae (EEOC) motion for leave to file brief and present oral argument (m-16)
6-19-78	15-Appellant's (Northwest Airlines, Inc.) brief (m-16)
6-23-78	Clerk's order directing Clerk to file EEOC's brief amicus curiae and that the motion to present oral argument is denied without prejudice to resubmission at the time counsel is notified of scheduling of oral argument.
6-23-78	15-Brief of amicus curiae (EEOC) (m-16)
7-21-78	15-Appellee's (ALPA) brief (m-21)
8-30-78	15-Reply brief of Northwest Airlines, Inc. (m-28)
9-18-78	Clerk's order, sua sponte, that Nos. 78-1056, et al. and No. 78-1365 be calendared the same day and before the same panel
12-26-78	4-Motion of EEOC, amicus curiae, for leave to present oral argument (m-22)
1-12-79	Clerk's order that the following times are allotted for oral argument: Appellant/cross-appellee - 20 minutes. Cross-appellee/Appellant - 20 minutes, EEOC - 10 min.

Date	Filings - Proceedings
8-30-79	Opinion for the Court filed by District Judge Richey.
8-30-79	Per Curiam order that the judgment of the District Court appealed from in these causes is affirmed in part, in accordance with the opinion of this Court filed herein this date; with respect to that portion of the case which is not the subject of the foregoing affirmance, the record is remanded by the District Court for further proceedings, also in accordance with the opinion of this Court filed herein this date.
9-13-79	11-Northwest Airlines, Inc., petition for rehearing (m-12)
10-5-79	Per Curiam order, sua sponte, that the order filed August 30, 1979 is vacated; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-5-79	Judgment by this Court that the judgment of the District Court insofar as it pertains to the Equal Pay Act is affirmed, but said judgment to the extent that it relates to the Title VII claim, is vacated in order that the District Court may consider the issue of laches, and this case is remanded to the District Court for further proceedings, all in accordance with the opinion of this Court filed herein on August 30, 1979.
10-9-79	Per Curiam order denying appellee's petition for rehearing; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
10-18-79	4-Appellant's motion to stay of mandate (m-18)
10-23-79	1-Transcript of oral argument.
11-7-79	Letter dated 10-31-79 from counsel for Air Line Pilots Association that they take no position on the motion to stay the mandate (m-31)

Date	Filings - Proceedings
12-7-79	Per Curiam order granting appellee's motion for stay of mandate pursuant to Rule 41 of FRAP; CJ Wright, Robinson, CJ and Richey, US District Court Judge for DC
1-2-80	Per Curiam order granting appellee's (Northwest) motion for leave to file opposition to bill of costs and the total amount of $359.65 is awarded to appellee (Air Line Pilots) and taxed against appellee (Northwest); CJ Wright, Robinson, CJ and Richey US District Court Judge for DC
1-2-80	4-Appellee's (Northwest) opposition to bill of costs (m-26)
1-2-80	4-Appellee's (Air Line Pilots) reply to opposition to bill of costs - filed per above order.
1-10-80	Notification from Clerk, Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056.
1-10-80	Certified copy of order from Clerk, Supreme Court that the petition for writ of certiorari was filed on 1-4-80 in S.C. No. 79-1056 and is now pending.

IN THE
UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,
Plaintiff,

vs.

COMPLAINT

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,
Defendants.

Declaratory Relief
28 U.S.C. §2201

Plaintiff, NORTHWEST AIRLINES, INC. [hereinafter "NWA"], for its claim against the defendants, states and alleges as follows:

1. NWA is, and at all times herein material has been, a Minnesota citizen and corporation, with its principal office and place of business in Minnesota, and is and has been a common carrier by air engaged in interstate commerce under Certificates of Convenience and Necessity issued by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958 as amended [49 U.S.C. § §1301 et seq., esp. 1371] (hereinafter "FAA") and is subject to the provisions of the Railway Labor Act [45 U.S.C. § §151-188, except 153] (hereinafter "RLA").

2. Defendant Transport Workers Union of America, AFL-CIO [hereinafter "TWU"] is and at all times herein material has been a national labor union comprised of many hundreds of members, with a principal office in New York; TWU is also present and doing business in the District of

Columbia, with an office, a place of business and an officer located therein; it is amenable to the jurisdiction of, and subject to proper venue in, the above named Court; TWU is not a Minnesota citizen.

3. Defendant Air Line Pilots Association, International [hereinafter "ALPA"] is and at all times herein material has been a national labor union comprised of many hundreds of members, with a principal office in the District of Columbia; it is amenable to the jurisdiction of, and subject to proper venue in, the above named Court; ALPA is not a Minnesota citizen.

4. Jurisdiction of this cause is founded on the RLA, the FAA, the Equal Pay Act of 1963 [29 U.S.C. §206(d)] (hereinafter "EPA"), Title VII of the Civil Rights Act of 1964 [42 U.S.C. §2000e] (hereinafter "Title VII") and on the Judicial Code [28 U.S.C. § §1331, 1332 and 1337] as a civil action in which the matter in controversy exceeds the sum or value of $10,000 [exclusive of interest and costs] and arises under the Constitution, laws or treaties of the United States or is between citizens of different states, or is a civil action arising under an Act of Congress regulating commerce. Declaratory relief is founded on and sought pursuant to the provisions of 28 U.S.C. § 2201 in an actual case or controversy, as hereinafter more particularly alleged.

5. On December 17, 1946, pursuant to and in accordance with the RLA, the National Mediation Board (hereinafter "NMB") certified the Air Line Stewards and Stewardesses Association, International (hereinafter "ALSSA") as the duly designated collective bargaining representative of NWA's female Cabin Attendants [Stewardesses]; this certification was amended by NMB on October 21, 1948 to provide that ALSSA also was the duly designated collective bargaining representative of NWA's Pursers, which certifi-

cation was amended again by NMB on June 20, 1950 to include NWA's Flight Service Attendants, the then male counterparts of Stewardesses. On July 7, 1961 ALSSA having affiliated with defendant TWU, the NMB, pursuant to and in accordance with the RLA, certified TWU, under the name and style of "Air Line Stewards and Stewardesses Association, International, Transport Workers Union of America, AFL-CIO," as the duly designated collective bargaining representative of all Cabin Attendants and Pursers of NWA. TWU thereafter continued as the certified and designated collective bargaining representatives of all NWA's Cabin Attendants and Pursers to and until September 17, 1971, on which date TWU was replaced by ALPA, pursuant to and in accordance with the RLA, as the collective bargaining representative of NWA's Cabin Attendants and Pursers and as so certified by the NMB.

6. At all times from December 17, 1946 through December 14, 1972, pursuant to and in accordance with the RLA and in response to union demands, NWA has negotiated and entered into a series of collective bargaining contracts with the then incumbent union, ALSSA, TWU or ALPA, respectively and successively. Since the inception of the Purser classification in 1947 and continuing after enactment and effectiveness of EPA and Title VII, there were differentials in salary [including pensions when negotiated] between NWA's Pursers and Cabin Attendants as demanded by the respective defendant union, when incumbent, including TWU and ALPA, and which differentials were made an integral part of the collective bargaining negotiations and of all contracts entered into and implemented between NWA and the respective incumbent defendant union. TWU sponsored and participated in such negotiations, entered into and enforced such collective

bargaining contracts with NWA from July 7, 1961, and particularly during the years 1965 through 1971, until TWU was replaced by ALPA on September 17, 1971. Thereafter, during 1972, ALPA sponsored and participated in collective bargaining negotiations, entered into and enforced such a collective bargaining contract with NWA dated December 14, 1972 and retroactive to January 1, 1972. This most recent collective bargaining contract with NWA continued, as demanded by ALPA, a salary differential between Cabin Attendants and Pursers and the same presently remains in effect though now subject to "re-openers" and negotiations under RLA.

7. On July 15, 1970, a class action entitled "Mary P. Laffey, et al, Plaintiffs vs. Northwest Airlines, Inc., Defendant," [Civil Action No. 2111-70 in the Office of the Clerk of the above-named Court] was commenced. On May 20, 1974, after Trial, said Court entered its Judgment which, among other things, found that, at all times since 1964 and 1965, respectively, the collective bargaining contracts between NWA, TWU and ALPA, as hereinbefore alleged, has violated EPA and Title VII by providing for the payment of lower salaries for female Cabin Attendants than for male Pursers for jobs which said Judgment determined required equal skill, effort and responsibility and which have been performed under similar working conditions. Said Judgment ordered NWA to pay amounts of "back pay" or damages and interest for at least the years 1968 through 1974, the judgment date, based on the TWU/ALPA collectively bargaining contractual differential in salaries for Cabin Attendants and Pursers, and which amounts so ordered aggregate approximately $20 million at least, if said Judgment is not reversed.

8. On May 28, 1974, NWA filed motions for leave to

bring, as cross and third-party claims, the same claims herein made against TWU and ALPA, in the action described in Paragraph 7 above.

9. On July 10, 1974 said motions were, as requested by TWU and ALPA, denied, because they were too late and likely to confuse or delay the determination in said action described in Paragraph 7 above. The Orders denying said motions are non-appealable separately, as NWA is advised, but the same are being urged as erroneous in connection with the appeal by NWA from the Judgment, which appeal is described in Paragraph 10 below.

10. On July 17, 1970 [sic], NWA served and filed its appeal to the United States Court of Appeals for the District of Columbia Circuit from the Judgment identified in Paragraph 7 above, supporting the same by appropriate Notice and by a $24,500,000 supersedeas bond. During the pendency of that appeal, due to an Order of Stay, there has been and will be no final accounting for or payment of any past discriminatory underpayments due or payable to any particular plaintiff pursuant to the terms of the aforementioned Judgment. Nevertheless, while such appeal is pending, this case presents a justiciable controversy, requiring an ultimate trial and a decision on evidence, some of which, if not all, may be required to be presented anew herein, despite the voluminous Record already made in the trial of the case identified in Paragraph 7 hereof. This circumstance argues for a prompt proceeding while witnesses are still available and before their memories have further faded or changed with their status, relationships and conditions of life.

11. Since NWA has now been judicially found monetarily liable by Judgment to the class of female Cabin Attendants represented by plaintiffs in the action described in Paragraph 7 hereof because the collective bargaining

contracts were held to have violated the EPA and Title VII, NWA seeks a declaration and adjudication that TWU and ALPA are also liable, in turn and respectively, by virtue of their participation in the negotiation, execution and implementation of the collective bargaining contracts which provided for discrimination in salaries between the class of female Cabin Attendants and Pursers, for some or all of the liability so determined.

COUNT TWO

12. NWA realleges the allegations of Paragraphs 1 through 11 of COUNT ONE.

13. Since NWA has now been judicially found monetarily liable by Judgment to the class of female Cabin Attendants represented by plaintiffs in the action described in Paragraph 7 hereof because the collective bargaining contracts were held to have violated the EPA, NWA seeks a declaration and adjudication that TWU and ALPA are also liable, in turn and respectively, under the EPA, for their collective bargaining acts and contracts which caused or attempted to cause NWA to discriminate in salaries between the class of female Cabin Attendants and Pursers, in violation of EPA, particularly §206(d)(2) thereof, for some or all of the liability so determined.

COUNT THREE

14. NWA realleges the allegations of Paragraphs 1 through 13 of COUNT ONE and COUNT TWO.

15. NWA believes and alleges that its claims and rights

against TWU and ALPA have ripened or matured, and in any event contends that this action should be allowed to proceed against TWU and ALPA during the pendency of the aforementioned appeal. Among other things, and in addition to the need for evidence preservation, the duties and requirements of collective bargaining under RLA as well as business, budgeting and planning by NWA make it essential that a judicial determination be obtained, as quickly as feasible, concerning the extent to which TWU and ALPA are required by law to share the liability of NWA judicially determined in the action described in Paragraph 7 hereof.

16. NWA has commenced this action and seeks the further declaration of the Court that as a substantive and procedural matter this action properly may be maintained, processed and tried, notwithstanding the pendency of the appeal and the absence of any ultimate accounting and payment in the action described in Paragraph 7 hereof and elsewhere herein.

WHEREFORE, plaintiff prays for a Judgment as follows:

A. Adjudging and decreeing that this action may be maintained, processed and tried, notwithstanding the pendency of the appeal and the absence of any final accounting and payment in or as a result of the Judgment in the action described in Paragraph 7 hereof;

B. Adjudging and decreeing that each defendant is liable to pay a proportion, to be stated in said Judgment, of any monetary liability assessed against NWA in the action described in Paragraph 7 hereof for the EPA and/or Title VII violations finally found therein and during the respective periods for which each defendant contracted with NWA for salaries held to be discriminatory under the EPA and Title VII;

C. Adjudging and decreeing that each defendant is liable to pay a proportion, to be stated in said Judgment, of any monetary liability assessed against NWA in the action described in Paragraph 7 hereof for causing or attempting to cause NWA to violate the EPA as finally found therein and during the respective periods for which each defendant contracted with NWA for salaries held to be discriminatory under the EPA;

D. Adjudging and decreeing that each defendant is liable to pay NWA a proportion, to be stated in said Judgment, of the costs, attorneys' fees and expenses incurred by NWA and ordered to be paid by NWA in the action described in Paragraph 7 hereof and in the appeal described in Paragraph 10 hereof and in any and all further proceedings resulting therefrom;

E. Ordering that the above Court shall retain jurisdiction for so long as may be necessary to determine and award the actual monetary liability, attorneys' fees and expenses, as described in Paragraphs B, C and D above, arising out of the action and appeal described in Paragraphs 7 and 10 hereof;

F. Awarding NWA its costs and attorneys' fees incurred herein;

G. Awarding NWA such other and further relief as the Court may deem just and equitable.

Dated: February 12, 1975.

DORSEY, MARQUART, WINDHORST, WEST & HALLADAY

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VERNER, LIIPFERT, BERNHARD AND McPHERSON

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Attorneys for Plaintiff

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	)	
	)	
Plaintiff	)	
	)	
v.	)	Civil Action No.
	)	75-0223
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	)	
	)	
Defendants	)	

ANSWER OF AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

Defendant, Air Line Pilots Association, International ("ALPA"), answers the Complaint as follows:

COUNT I

1. On information and belief, admits the allegations of Paragraph 1 of the Complaint.

2. On information and belief, admits that the Transport Workers Union of America is a national labor union with many members, and otherwise denies knowledge or information sufficient to form a belief as to the allegations of paragraph 2 of the Complaint.

3. Admits the allegations of paragraph 3 of the Complaint, except denies that jurisdiction or venue properly lie in this action against ALPA.

4. Denies the allegations of paragraph 4 of the Complaint, except admits that Northwest Airlines, Inc. ("Northwest") purports to seek declaratory relief in this action.

5. Denies knowledge or information sufficient to form a belief as to the allegations in paragraph 5 of the Complaint, except admits that ALPA was duly certified by the National Mediation Board, on or about September 17, 1971, as the collective bargaining representative for Northwest's cabin attendants and pursers, pursuant to and in accordance with the Railway Labor Act.

6. Denies knowledge or information sufficient to form a belief as to any of the allegations in paragraph 6 of the Complaint which pertain to matters which preceded ALPA's certification on or about September 17, 1971, as the collective bargaining representative for Northwest's cabin attendants and pursers; admits that, after negotiation and mediation in 1972, Northwest and ALPA entered into a collective bargaining agreement dated December 14, 1972, for cabin attendants and pursers; admits that certain payments retroactive to January 1, 1972, were provided; admits that said agreement continued certain differentials in pay between cabin attendants and pursers; admits that Northwest has refused to agree to any agreement which eliminates such differentials or to ALPA efforts to eliminate such differentials through negotiations; and otherwise denies the allegations of paragraph 6 of the Complaint.

7. With respect to paragraph 7, admits that on or about July 15, 1970, an action entitled "*Mary P. Laffey, et al., Plaintiffs v. Northwest Airlines, Inc., Defendants*," Civil

Action No. 2111-70, was commenced in this Court; admits that on or about May 20, 1974, after trial, the Court entered a judgment, after entry of findings of fact and conclusions of law on or about November 12, 1973, and of a subsequent order on or about April 3, 1974, refers to said May 20, 1974 judgment for the contents thereof; denies knowledge or information sufficient to form a belief as to the amount of potential liability of Northwest if said judgment is not reversed, and otherwise denies the allegations of paragraph 7 of the Complaint.

8. With respect to paragraph 8, admits that on or about May 28, 1974, Northwest filed motions for leave to bring, as cross and third-party claims, certain claims against ALPA and the Transport Workers Union, and refers to said motions for the contents thereof.

9. With respect to paragraph 9, admits that by orders dated July 10, 1974, Northwest's motions to assert cross and third-party claims against ALPA and the Transport Workers Union were denied; admits that Northwest has appealed from the denial of said motions and that said appeal has been argued before the Court of Appeals for the District of Columbia and is presently pending, and otherwise denies the allegations of paragraph 9 of the Complaint. Whether the orders denying said motions are appealable separately presents a question of law as to which no answer is required.

10. With respect to paragraph 10, admits that on or about July 17, 1974, Northwest served and filed an appeal to the United States Court of Appeals for the District of Columbia from, *inter alia,* the judgment of the District Court entered on or about May 20, 1974, that sometime thereafter, Northwest filed with the Court a $24,500,000 supersedeas bond; admits that Northwest has declined to make any final accounting for a payment of any discriminatory under-

payments due or payable to any particular plaintiff, and otherwise denies the allegations of paragraph 10 of the Complaint.

11. Admits that Northwest purports to seek a declaration and adjudication of the liability of ALPA and the Transport Workers Union, and otherwise denies the allegations of paragraph 11 of the Complaint.

COUNT II

12. Repeats and realleges, as if fully set forth herein, the answers with respect to paragraphs 1 through 11 of the Complaint.

13. Admits that Northwest purports to seek a declaration and adjudication of the liability of ALPA and the Transport Workers Union, and otherwise denies the allegations of paragraph 13 of the Complaint.

COUNT III

14. Repeats and realleges, as if fully set forth herein, the answers with respect to paragraphs 1 through 13 of the Complaint.

15. Denies knowledge or information as to Northwest's beliefs, and otherwise denies the allegations of paragraph 15 of the Complaint.

16. Admits that Northwest has purported to commence this action as a means of obtaining certain declaratory relief, and otherwise denies the allegations of paragraph 16 of the Complaint.

AFFIRMATIVE DEFENSES

17. The Complaint fails to state a claim against ALPA upon which relief against ALPA can be granted.

18. The Court lacks jurisdiction over the subject matter of the Complaint or to grant the relief sought by the Complaint as against ALPA.

19. Following the issuance of judgment by the Court in *Laffey, et al. v. Northwest Airlines, Inc.*, Civil Action No. 2111-70, Northwest filed a motion for leave to assert cross-claims against ALPA, which Northwest asserts are the same claims it has now set forth against ALPA in the instant action. Said motion was denied by Order of the District Court dated July 10, 1974, and Northwest has appealed from said denial. That appeal has already been argued before the United States Court of Appeals for the District of Columbia, and is presently pending. This action duplicates the prior pending action, and should be dismissed.

20. Northwest, by this action, purports to seek, *inter alia*, declaratory relief against ALPA. The Court cannot and should not entertain such a claim while the claim is presently being considered in another prior pending action, as set forth in paragraph 19 above.

21. Northwest has not paid any monetary sums by way of relief to plaintiffs in the case of *Laffey, et al. v. Northwest Airlines, Inc.*, Civil Action No. 2111-70. Accordingly, any claim Northwest might conceivably have for contribution and/or indemnification as against ALPA is not ripe, and does not present a justiciable controversy.

22. This action is barred by the doctrine of *res judicata* and/or collateral estoppel.

23. This Court lacks jurisdiction over any claims asserted in the Complaint by Northwest against ALPA by reason of

alleged violations of the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964.

24. The Complaint fails to state a claim against ALPA upon which relief can be granted against ALPA by reason of alleged violations of the provisions of the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964.

25. Northwest elected not to assert any claims against ALPA in *Laffey, et al. v. Northwest Airlines, Inc.*, Civil Action No. 2111-70, despite ALPA's presence as a party to that action, and instead waited until one and one-half years after the completion of trial in that action and until after entry of final judgment to attempt to assert the claims which it now again attempts to assert herein. Northwest's delay in asserting claims of which it possessed full knowledge is a bar to this action against ALPA.

26. This action is barred by the doctrine of laches.

27. Northwest is solely and exclusively liable for any unlawful employment practices applied to its cabin attendants and pursers, including violations of the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964, and resulting liability found in *Laffey, et al. v. Northwest Airlines, Inc.*, and ALPA is not liable for any of said violations of the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964.

28. Northwest has consistently refused to consider and rejected ALPA efforts to eliminate alleged discriminatory employment practices, including alleged discrimination between cabin attendants and pursers. It has constantly been Northwest's position that no modification of its employment practices and policies to eliminate the alleged discriminatory employment practices found in *Laffey, et al. v. Northwest Airlines, Inc.* was warranted or would be made and that Northwest would not enter into a collective bargaining

agreement with ALPA which would eliminate such practices or enter into an agreement with ALPA consistent with the provisions of the remedy order issued by the District Court in the *Laffey* case. As part of said course of action, Northwest has, most recently and since entry of the District Court Orders in the *Laffey* litigation, consistently refused to negotiate and sign a collective bargaining agreement which would eliminate the alleged discriminatory employment practices found in the *Laffey* litigation or to conclude and sign a collective bargaining agreement consistent with the provisions of the remedy order issued by the District Court in the *Laffey* case. By reason of its course of conduct, Northwest is solely and exclusively responsible for any discriminatory employment practices and resulting liability found by the Court in *Laffey, et al. v. Northwest Airlines, Inc.*, and ALPA is not liable for any of the said violations of the Equal Pay Act of 1963 or Title VII of the Civil Rights Act of 1964.

WHEREFORE, it is respectfully requested that the Court enter judgment dismissing the Complaint as against ALPA and granting such other and further relief as may be just and proper to this Court, including reasonable attorneys' fees and the costs and disbursements of this proceeding.

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By /s/ Donald J. Capuano

Attorneys for Air Line Pilots
Association, International

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	:	Civil Action No. 75-0223 Gasch, J.
Plaintiff,	:	
v.	:	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, and AIRLINE PILOTS ASSOCIATION, INTERNATIONAL,	:	**ANSWER**
Defendants.	:	

Defendant Transport Workers Union of America, AFL-CIO, (hereinafter referred to as TWU), by its attorneys, O'Donnell & Schwartz, and Giangreco, Seay and Manuel, for its answer to the complaint of plaintiff Northwest Airlines, Inc., (hereinafter referred to as Northwest), respectfully alleges:

COUNT ONE

1. Admits each and every allegation contained in paragraph 2 of the complaint, except denies that it is subject to proper venue in the District of Columbia.

2. Denies each and every allegation contained in paragraph 4 of the complaint.

3. Admits each and every allegation contained in paragraph 6 of the complaint, except denies that TWU ever demanded differentials in salary between pursers and cabin attendants.

4. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 7 of the complaint.

5. Admits each and every allegation contained in paragraph 10, except denies the allegations that this case presents a justiciable controversy while the appeal is pending and that the circumstances argue for a prompt proceeding.

6. Denies each and every allegation contained in paragraph 11 of the complaint.

COUNT TWO

7. Repeats and realleges its answers with respect to paragraphs 1 through 11 of the complaint.

8. Denies each and every allegation contained in paragraph 13 of the complaint.

COUNT THREE

9. Repeats and realleges its answers with respect to paragraphs 1 through 11 of the complaint.

10. Denies each and every allegation contained in paragraphs 15 and 16 of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

11. On May 20, 1974, the Court rendered an adverse decision against Northwest in the case of Mary P. Laffey et al., Plaintiffs, vs. Northwest Airlines, Inc., Defendants, [Civil Action No. 2111-70, filed July 15, 1970, in the office of the clerk of the above-named Court] (hereinafter referred to as the Laffey Action) with respect to claims by plaintiff Laffey that Northwest had violated Title VII of the Civil Rights Act of 1964 and the Equal Pay Act of 1963, by maintaining salary differentials between pursers and cabin attendants.

12. On May 28, 1974, after judgment, Northwest filed motions requesting leave to serve TWU with cross and third-party claims for relief in the Laffey Action. By these motions, Northwest sought to assert the same claims against TWU that it is now seeking to assert in this proceeding. Leave to make such service was denied by the Court in the Laffey Action on July 10, 1974.

13. The ruling denying leave to serve TWU with cross and third-party claims is among those challenged by Northwest in an appeal in the Laffey Action now pending before the United States Court of Appeals for the District of Columbia, and the validity of Northwest's rights to bring claims against TWU will be adjudicated by that Court as a part of the disposition of that appeal.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

14. TWU repeats and realleges the allegations set forth in paragraphs 11 and 12 of this answer.

15. Although Northwest had notice of all the facts and all the acts of TWU set forth in the complaint herein as of July 15, 1970, when the Laffey Action commenced, it nevertheless refrained from commencing any action against TWU until May 28, 1974, and from commencing this action until February 18, 1975. During the interval, because of a reorganization of TWU's Local 550 which represented the Northwest Flight Attendants, many of TWU's records pertinent to the defense of this case have been destroyed, and witnesses who would have testified on TWU's behalf are now unavailable. Northwest has been guilty of such laches as should in equity bar it from maintaining this action.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

16. Under the provisions of the Equal Pay Act of 1963 (29 U.S.C. §206(d)), the responsibility not to discriminate among its employees on the basis of sex with respect to rates of pay and concomitant benefits, lies solely upon the employer. The Act mandates that the employer alone pay the higher rate to correct improper differentials of pay and benefits.

17. Plaintiffs in the Laffey Action never filed a charge against TWU with the Equal Employment Opportunities Commission, as required by the provisions of Title VII of the Civil Rights Act of 1964 (42 U.S.C. §2000e et seq.). Had TWU been named as a defendant or third-party defendant in

the Laffey Action, the Court would not have had jurisdiction over it to render judgment against it for any Title VII damages.

18. For the reasons set forth in paragraphs 16 and 17 of this answer, this Court lacks jurisdiction to entertain Northwest's complaint under either the Equal Pay Act of 1963 or Title VII of the Civil Rights Act.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

19. TWU repeats and realleges the allegations set forth in paragraphs 16 and 17 of this answer.

20. For the reasons set forth in paragraphs 16 and 17 of this answer, Northwest's complaint fails to state a claim against TWU upon which relief can be granted.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

21. TWU repeats and realleges the allegations set forth in paragraphs 16 and 17 of this answer.

22. Although TWU and Northwest were parties to successive collective bargaining agreements between July, 1961 and September 1971, no right of contribution now exists to Northwest because TWU and Northwest were never under a common obligation or burden to plaintiffs in the Laffey Action.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

23. TWU received no benefit from the violations of the Equal Pay Act of 1963 and of Title VII of the Civil Rights Act of 1964 as determined to have been committed by Northwest in the Laffey Action. Upon information and belief, judgment has been rendered against Northwest in the Laffey Action for $24 million, which are Northwest's accrued profits from such violations. No right to contribution lies against TWU, and any contribution assessed against TWU in favor of Northwest would constitute a windfall gain to Northwest.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

24. At no time did TWU have or exercise any control over Northwest's hiring practices. The determination that Northwest violated the Equal Pay Act of 1963 and Title VII of the Civil Rights Act of 1964 is founded upon the assignment of females alone to the cabin attendants' position and the assignment of males alone to the purser and flight service attendants' position.

25. The restriction requiring that females be assigned to cabin attendant positions and males to purser and flight service attendant positions was initiated and maintained solely by Northwest.

26. From the very commencement of its representation of Northwest's cabin attendants and pursers, TWU regularly sought to remove those restrictions both in its negotiations with Northwest and by resort to administrative agencies.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE

27. From July 1961 to September 1971, Northwest represented to TWU and took the position in negotiations, that occupants of the purser position performed duties involving greater responsibility to Northwest and to Northwest's passengers than did occupants of the cabin attendant position, and that the pay differential between the purser position and the cabin attendant position was therefore properly justifiable. TWU relied upon Northwest's representation and accepted the pay differentials between cabin attendants and pursers as initiated and maintained by Northwest.

WHEREFORE, defendant Transport Workers Union of America, AFL-CIO, demands judgment that the complaint herein be dismissed, and that it have its costs and disbursements in this action.

DATED: New York, N. Y.
May 30, 1975

O'DONNELL & SCHWARTZ

By /s/ ASHER W. SCHWARTZ

Attorneys for Defendant Transport Workers Union of America, AFL-CIO

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CERTIFICATION OF MAILING

I hereby certify that a copy of the foregoing was mailed, postage prepaid, to Verner, Liipfert, Bernhard & McPherson, 1660 L Street, Northwest, Suite 1100, Washington, D.C. 20036, Attn: John L. Richardson, Esquire, Cohen, Weiss & Simon, 605 "3rd" Avenue, New York, New York 10016; O'Donoghue & O'Donoghue, 912 Sunderland Place, Northwest, Washington, D.C. 20036, Attn: Donald J. Capuano, Esquire, all on the 29th day of May, 1975.

/s/ A. Andrew Giangreco

Certificate of Mailing also to:
Henry Halladay, Esquire, 2300 First National Bank Building, Minneapolis, Minnesota 55402 and David H. Ranheim, Esquire, 2300 First National Bank Building, Minneapolis, Minnesota 55402.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	No. 75-0223
	)	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	)	
	)	
Defendants.	)	

MOTION TO DISMISS

Pursuant to Federal Rule 12 of the Federal Rules of Civil Procedure, defendant Air Line Pilots Association, International, by and through its attorneys, hereby moves this Court to dismiss the above-entitled action on the grounds that the complaint fails to state a claim against defendant Air Line Pilots Association, International upon which relief can be granted and the Court lacks jurisdiction over the subject matter of the complaint.

Respectfully submitted,

By: /s/

COHEN, WEISS and SIMON
605 Third Avenue
New York, New York 10016

O'DONOGHUE & O'DONOGH
1912 Sunderland Place, N.W.
Washington, D.C. 20036

By: /s/

Attorneys for Air Line Pilots
Association, International

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	:	Civil Action No. 75-0223
Plaintiff,	:	
v.	:	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	:	
Defendants.	:	

MOTION TO DISMISS

Pursuant to Rule 12 of the Federal Rules of Civil Procedure, defendant Transport Workers Union of America, AFL-CIO, by its attorneys, O'Donnell & Schwartz, hereby moves this Court to dismiss the above-captioned action on the grounds that the complaint fails to state a claim against defendant Transport Workers Union of America, AFL-CIO, upon which relief can be granted and the Court lacks jurisdiction over the subject matter of the complaint.

Respectfully submitted,

O'DONNELL & SCHWARTZ

By /s/

Attorneys for Transport Workers
Union of America, AFL-CIO
285 Madison Avenue
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(212) 532-8900

and

100 Indiana Avenue, N. W.
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REFERENCE PAGE

The following opinion and order have been omitted in printing this appendix because they appear in the appendixes to the printed Petition for Certiorari as indicated:

Memorandum opinion of the district court, dated July 7, 1977	Petition for Certiorari Appendix B
Order of the district court granting in part and denying in part the defendants' motion to dismiss, dated July 7, 1977	Petition for Certiorari Appendix C

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	)	
	)	
Plaintiff,	)	
v.	)	Civil Action
	)	No. 75-0223
	)	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	)	
Defendants.	)	

MOTION TO MODIFY COURT'S ORDER FOR PURPOSES OF CERTIFICATION PURSUANT TO 28 U.S.C. §1292(b) AND TO MODIFY COURT'S MEMORANDUM

Defendant Air Line Pilots Association, International, by and through its attorneys, hereby moves this Honorable Court to modify its Order of July 7, 1977 denying defendants' motion to dismiss plaintiff's claim for Title VII contribution by certifying this issue for appeal pursuant to 28 U.S.C. §1292(b), and to modify its Memorandum of July 7, 1977.

Respectfully submitted,

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WEISS and SIMON
605 Third Avenue
New York, New York 10016

O'DONOGHUE &
O'DONOGHUE
1912 Sunderland Place, N.W.
Washington, D. C. 20036

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,

Plaintiff,

vs.

Civil Action No.
75-0223

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,

Defendants.

CONDITIONAL MOTION OF NORTHWEST AIRLINES, INC. FOR ENTRY OF FINAL JUDGMENT, PURSUANT TO R. 54(b), FED. R. CIV. P.

Plaintiff Northwest Airlines, Inc., hereby moves this Honorable Court to enter final judgment pursuant to R. 54(b) of the Federal Rules of Civil Procedure on its Order dismissing the plaintiff's claim for reimbursement of some portion of its Equal Pay Act-based monetary liability. This motion is conditioned upon this Court certifying as ready for immediate appeal, pursuant to 28 U.S.C. §1292(b), its denial of the unions' motion to dismiss and upon the further condition that the Court of Appeals accepts the unions' interlocutory appeal. If this Court does not grant certification, or if the Court of Appeals declines to hear an interlocutory appeal, Northwest requests that final judgment not be entered under R. 54(b) on the Court's Order

dismissing the Equal Pay Act-based claims.

Dated:

Respectfully submitted,

VERNER, LIIPPFERT, BERNHARD, AND MCPHERSON

By _____
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DORSEY, WINDHORST, HANNAFORD, WHITNEY & HALLADAY

By _____
Henry Halladay

And _____
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Telephone: (612) 340-2600

Attorneys for Plaintiff Northwest Airlines, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	No. 75-0223
	)	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	)	
	)	
Defendants.	)	

ORDER

Upon consideration of defendants' motion to modify this Court's Order and Memorandum of July 7, 1977, plaintiff's opposition thereto and conditional motion for entry of final judgment pursuant to Rule 54(b) of the Fed. R. Civ. P., and the memoranda of points and authorities submitted by the parties, it is by the Court this 28th day of July, 1977,

ORDERED that this Court's Memorandum, dated July 7, 1977, be, and hereby is, modified by the deletion of footnote 18 at page 7 and the corresponding renumbering of subsequent footnotes; and it is further

ORDERED that the motion for certification, pursuant to

28 U.S.C. §1292(b), for immediate appeal of the denial of defendants' motion be, and hereby is, granted and that the Court's Order of July 7, 1977, be, and hereby is, modified by the addition of the following paragraph:

> The Court certifies, pursuant to 28 U.S.C. §1292(b), that it is of the opinion that the denial by this Order of defendants' motion to dismiss plaintiff's claim for reimbursement for some portion of its monetary liability arising under Title VII of the Civil Rights Act involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the Order may materially advance the ultimate termination of the litigation.

and it is further

ORDERED that if the Court of Appeals chooses to hear the unions' interlocutory appeal, there shall be no just reason for delay and final judgment shall forthwith be entered on the Order of July 7, 1977 dismissing, without prejudice, Northwest's claims for reimbursement from the defendants for some portion of its monetary liability with respect to the Equal Pay Act; and it is further

ORDERED that proceedings in this Court shall not be stayed pending resolution of the interlocutory appeal.

/s/_____

Judge

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 77-8044 **September Term, 1977**

Air Line Pilots Association, Civil Action #75-0223

v.

Northwest Airlines, Inc.,

Respondent

And consolidated case No. 77-8045

BEFORE: McGowan and Leventhal, Circuit Judges

ORDER

On consideration of the petition for permission to appeal pursuant to 28 U.S.C. §1292(b) and of the responses thereto, it is

ORDERED by the Court that the aforesaid petitions for leave to appeal are granted.

The Clerk of the District Court is requested to certify and transmit the record on appeal at his earliest convenience.

Upon docketing of the appeal, the parties are directed to discuss in their briefs before this Court, *inter alia:*

(1) whether there exists a procedural device or devices by which a respondent in a proceeding before the Equal Employment Opportunity Commission such as

Northwest may obtain the presence of a third party such as the Unions as a co-respondent to the claims of violations of Title VII;

(2) assuming *arguendo* the availability of such a device, whether Northwest's failure to utilize it should bar jurisdiction in federal court under Title VII to decide such claims brought thereunder; and

(3) assuming *arguendo* the existence of a "federal common law of contribution", whether it can serve as a basis for federal subject matter jurisdiction where diversity of citizenship does not exist and where explicit statutory jurisdictional requirements, such as those included in Title VII, have not been met.

Per Curiam

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

NORTHWEST AIRLINES, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action
	)	No. 75-0223
	)	
TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO and AIR LINE PILOTS ASSOCIATION, INTERNATIONAL,	)	
	)	
Defendants.	)	

ORDER

In *Laffey v. Northwest Airlines, Inc.*, 366 F. Supp. 763 (D.D.C. 1973), *aff'd in relevant part*, 13 F.E.P. Cases 1068 (D.C. Cir. Oct. 20, 1976), plaintiff herein was found to have violated the Equal Pay Act, 29 U.S.C. §206(d)(1) (1970), and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e-2(a) (1970). Northwest then filed this action on the theory that because of defendants' participation in the collective bargaining agreement underlying the *Laffey* judgment, it is entitled to reimbursement from the defendants for some portion of the monetary judgment issued against it in *Laffey*.

Defendants moved to dismiss, and on July 7, 1977, plaintiff's claim for reimbursement under the Equal Pay Act was dismissed, but in all other respects, defendants' motion was denied. On July 28, 1977, the July 7th Memorandum-Order was modified by adding a certification under 28 U.S.C. §1292(b) concerning the denial of defendants' motion to dismiss plaintiff's claim for reimbursement under Title VII. That modification further stated that if the Court of Appeals should choose to hear defendants' interlocutory appeal, then the Court would enter an order under Rule 54(b) as to the claim under the Equal Pay Act.

Having received notification that the Court of Appeals on January 6, 1978, granted defendants' interlocutory appeal, the Court therefore finds that there is no just reason for delay in entering final judgment on plaintiff's other claim. Accordingly, it is by the Court this 11th day of January, 1978,

ORDERED that final judgment be, and hereby is, entered on the Order of July 7, 1977, dismissing, without prejudice, plaintiff's claim for reimbursement from defendants for some portion of its liability with respect to the Equal Pay Act.

_____

Judge

United States District Court for the District of Columbia

NORTHWEST AIRLINES, INC.

Plaintiff.

vs.

CIVIL NO. 75-0223

Transport Workers Union of America, AFL-CIO and Air Line Pilots Association, International

Defendant.

NOTICE OF APPEAL

Notice is hereby given this 3rd day of February, 1978, that Northwest Airlines, Inc., plaintiff in the above named action, hereby appeals to the United States Court of Appeals for the District of Columbia from the judgment of this Court entered on the 11th day of January, 1978, in favor of Transport Workers Union of America, AFL-CIO and Air Line Pilots Association, International against said Northwest Airlines, Inc.

/s/Philip A. Lacovara
HUGHES HUBBARD & REED
1660 L Street, N. W.
Washington, D. C. 20036

Attorney for

Northwest Airlines, Inc.

REFERENCE PAGE

The following opinions, judgments and orders have been omitted in printing this appendix because they appear in the appendixes to the printed Petition for Certiorari as indicated:

Opinion of the court of appeals, dated August 30, 1979	Petition for Certiorari Appendix D
Order of the court of appeals, dated August 30, 1979	Petition for Certiorari Appendix E
Order of the court of appeals, dated October 5, 1979, vacating the order of August 30, 1979	Petition for Certiorari Appendix F
Judgment of the court of appeals, dated October 5, 1979	Petition for Certiorari Appendix G
Order of the court of appeals, denying petition for rehearing, dated October 9, 1979.	Petition for Certiorari Appendix H

Supreme Court of the United States

No. 79-1056

NORTHWEST AIRLINES, INC.,

Petitioner,

v.

TRANSPORT WORKERS UNION OF AMERICA, AFL-CIO, ET AL.

ORDER ALLOWING CERTIORARI. Filed June 16, 1980

The petition herein for a writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit is granted. The case is set for oral argument in tandem with No. 79-972, *Westvaco Corporation* v. *Adams Extract Co.* Mr. Justice Blackmun took no part in the consideration or decision of the motion and petition.